

**ORANGE COUNTY PLANNING COMMISSION  
RULES OF PROCEDURE**

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## **RULES OF PROCEDURE ORANGE COUNTY PLANNING COMMISSION**

### **Section 1: Purpose and Intent**

These Rules of Procedure are to govern the actions, organization and procedures of the Orange County Planning Commission.

### **Section 2: Authority**

The authority of the Planning Commission is derived from the following sources:

- A. The State Planning and Zoning Law relating to the general plan, plans, zoning and subdivisions (codified in the Government Code commencing with §65000).
- B. Ordinances of the County of Orange.
- C. The Orange County Environmental Impact Report Procedures adopted pursuant to the State Guidelines for Implementation of the California Environmental Quality Act (codified in the Public Resources Code commencing with §21000 et seq.).
- D. Specific policies and directives of the Orange County Board of Supervisors set forth in various resolutions and minute orders.

### **Section 3: Meetings**

- A. The Chairman (and the Commission) shall be guided, but not bound, by Roberts Rules of Order, latest revision, on all questions of procedure and parliamentary law not covered by these rules and regulations.
- B. The Chairman shall exercise firm control and direction during the course of any Commission meeting or hearing. No member of the Commission or of the general public shall address the Commission until recognized by the Chairman.

- C. The Chairman shall exercise general supervision over the business papers and property of the Commission, and shall execute all resolutions on behalf of the Commission; the same to be attested by the Commission's Executive Officer or the Planning Secretary.
- D. The Chairman may present to the Commission such matters as the Chairman deems necessary, and shall not be required to vacate his or her chair for the purpose of actively discussing (as a member of the Commission) an item on the agenda or a subject for review, discussion and/or recommendation by the Commission except as the matter may be deemed a conflict of interest.
- E. The Commission shall establish a schedule of its upcoming meetings for at least three months in advance. Meetings shall be conducted at 1:30 p.m. in the hearing room of the Hall of Administration located at 10 Civic Center Plaza Drive, Santa Ana, California per adopted Planning Commission Schedule. The Commission, through the office of the Planning Secretary, the Executive Officer, or the Commission itself, may cancel a regular meeting or schedule a special meeting either in its hearing room or elsewhere in the county. Changes to the normal schedule of Commission meetings should be made in consultation with the Commission Chair. These matters shall be governed by "the Brown Act" (codified in the Government Code commencing with Section 54950).

#### Section 4: Membership

Unless the context indicates otherwise, references in these Rules of Procedure to the Commission or its members mean the five voting members of the Commission, one of whom has been appointed from each supervisorial district. The Director of the Resources and Development Management Department or designee (who shall also serve as Executive Officer to the Commission) and the County Counsel or designee are nonvoting advisory members of the Commission. A Recording Secretary shall also be present during all Commission deliberations.

## Section 5: Officers

During the month of January the Commission shall elect a Chairman and a Vice-Chairman who shall serve at the pleasure of a majority of the full voting membership of the Commission. Upon election, the Chair shall assume his/her responsibilities. The Chairman shall preside at meetings and perform such other duties as may be prescribed by these Rules of Procedure. In the absence of the Chairman, the Vice-Chairman shall assume the Chairman's duties. In the event that neither the Chairman nor the Vice Chair is present to oversee the meeting of a quorum, the Executive Officer shall serve as the Temporary Chairman, and shall gavel the meeting to order, take roll, and then call for the nomination of a *Chair Pro Tem*.

Vacancies in the unexpired terms of the Chairman and Vice-Chairman shall be filled from the membership of the Commission by an election held at the first meeting following the creation of the vacancy.

## Section 6: Change of Officers

As noted in Section 5: Officers, the Commission Chair and Vice-Chair serve at the pleasure of the full voting membership of the Commission. An officer may be changed with or without cause by a majority vote of the full Commission. Any two members may request the Executive Secretary to agendize an action to change the Chair or Vice-Chair at the next regularly scheduled Commission meeting. When the matter is considered and acted on, the result shall take effect immediately, including assumption of the remainder of the meeting agenda by the newly appointed Chair. The term of the newly appointed Chair shall extend to the end of the regular term, wherein the Commission will determine the officers for the New Year as prescribed in Section 5, above.

## Section 7: Agenda

The Executive Officer to the Commission shall cause an agenda to be prepared for each meeting, including:

- A. Items referred by the Board of Supervisors;

- B. Items previously set for consideration by the Commission;
- C. Items requested by any member of the Commission including advisory members;
- D. Appeals to the Commission as authorized by other ordinance or regulation;
- E. Reports from the Resources and Development Management Department.
- F. Listing of upcoming items.
- G. Actions by the Board of Supervisors on Commission recommendations and appeals made from the Commission's previous decisions

Private individuals, groups or organizations desiring to place an item on the agenda shall submit a written request to the Commission or the Executive Officer. Such request shall contain an explanation of the item and the reason for the request. The Chairman shall consider each item and, under advise of the Commission Counsel, will determine whether the matter shall be placed on the current meeting agenda, set for a future agenda, or determined not to be a matter to be properly be placed before the Commission.

The agenda may contain a consent calendar of items to be voted upon and approved by a single motion without discussion. Only routine matters and minor technical items requiring Commission action shall be placed on the consent calendar. Prior to accepting a motion for approval of the consent calendar, the Chairman shall ask whether anyone wishes an item removed from the consent calendar. If so, then the item shall be considered as an ordinary public meeting item.

The Chairman may vary the order in which items on the agenda are taken up, provided that items for a time certain shall not be taken up prior to the time for which they are set.

The last three items on the agenda of each regular meeting shall be "Reports from the R&DMD," "Public Comments," and

"Tentative PC Agenda" for the next two regularly scheduled Commission meetings. The Tentative PC Agenda shall list a.) Public Hearing Items, b.) Public Meeting Items, and c.) Work Study Items.

During "Public Comments" any person may address the Commission on any matter within the subject matter jurisdiction of the Commission, subject to time limits adopted for the meeting. In the course of "Reports from the R&DMD" and "Public Comments", it is the policy of the Commission to refer any request for action to the staff for appropriate study.

It is the policy of the Commission to only take action on matters identified on the agenda.

#### Section 8: Public Hearing Notice & Procedure

Certain matters are required by law to be considered at public hearings at which any interested person may testify. These matters include but are not limited to General Plan Amendments, Zone Changes, Conditional Use Permits, Variances, and Revocation Proceedings brought against a permit holder. In addition, the Commission may set public hearings on any matter of concern to the Commission. The notice requirements for public hearings vary depending upon the matter being held.

The date for such special public hearings shall be set by the Commission.

The Commission shall adhere to the following procedures in the course of public hearings and in considering matters such as environmental impact reports for which public hearings are not legally required but which are before the Commission for action and in which there is public interest:

- A. The Chairman shall call for the item (or items where related matters are being considered concurrently), and may request an oral report and recommendation, if any, from the Executive Officer or his/her representative.
- B. The comments of the advisory members of the Commission may be requested.

- C. Public testimony will be heard with the applicant, or immediately affected property owner, if any, being given an opportunity to speak first, followed by others in any convenient order which may be designated by the Chairman. Persons addressing the Commission shall step to the podium and give their name and address for the record before speaking. Persons speaking in a representative capacity, including attorneys, shall state their affiliation or persons being represented.
- D. In the course of public testimony, questions by members of the Commission or Advisory Members shall be asked with the consent of the Chairman.
- E. The Chairman shall announce the conclusion of public testimony.
- F. Additional comments or response from the Executive Officer or Commission Counsel may be requested.
- G. Each Commissioner shall then be granted the opportunity to ask final clarifying questions of staff. Deliberations on the issue may only occur following the making and second on an action motion pertaining to the item before the Commission.

The Commission shall be given the opportunity to deliberate on the action to be taken prior to calling the question. Roberts Rules of Order shall be observed in making motions, closure of debate, substitute motions, and incidental motions.

Any matter may be continued in the absence of a deadline for action established by law. When a legally noticed public hearing is continued, it shall be to a date and time certain. Certain matters as specified in the Zoning Code may be taken under submission.

- H. The Commission may elect to continue final action on a matter until written findings or exhibits reflecting the Commission's proposed action can be prepared. In such

cases, any public hearing on the matter shall be closed, the staff shall be instructed to prepare the proposed findings or exhibits and the matter shall be continued for the sole purpose of taking final action.

- I. Unless the chairman indicates otherwise at the time the matter is continued, no additional testimony shall be heard at the continued meeting.

#### Section 9: Study Sessions

When a matter is designated as a "study session" on the agenda, public testimony may be limited to particular persons at the discretion of the Chairman. Where it is anticipated that someone other than the County staff will brief the Commission, the identity or affiliation of that person shall be indicated on the agenda.

#### Section 10: Quorums and Voting

- A. Three voting members shall constitute a quorum of the Commission for the transaction of business.
- B. All motions shall require a second. When a motion is before the Commission, no other motion shall be entertained except an amendment to the original motion or a substitute motion, both of which shall have precedence over the original motion.
- C. A motion may be withdrawn only by the maker with the consent of the person who offered the second.

Unless otherwise specified by law or by these Rules of Procedure, the affirmative votes of a majority of the quorum shall carry a motion. Members recused from a vote shall not be counted as present for the purpose of maintaining a quorum.

State law requires the affirmative votes of a majority of the total voting members of the Commission for the approval of elements of and amendments to the general plan and specific plans, as well as zoning district changes and zoning code amendments.



Voting shall be by roll call on zoning ordinances, specific plans, the general plan, and whenever any member so requests. Reading of motion will be done by Secretary before roll call.

#### Section 11: The Record

All exhibits placed before the Commission as part of the testimony shall be prominently displayed and identified. Staff reports are part of the record. It shall be the duty of the Executive Officer or designee to certify the action taken by the Commission on the face of such maps or exhibits.

Excepted from this rule is the case of field trips in the course of special meetings where it is impractical to do so. Meetings of the Planning Commission shall be recorded on audio tape or by other such means and these recordings shall be available for a period of two (2) years for replay and copying in accordance with general county policies and procedures. Persons concerned with documenting the Commission's meetings may make their own arrangements to bring stenographers or reporters at their own cost.

Written minutes of every Commission meeting shall be prepared. The minutes shall include a general summary of the testimony and the Commission's discussion preceding each action and the action taken. Except for rare circumstances, the draft or final minutes will be available for review within three (3) weeks' time. It shall be the duty of the Executive Officer to certify the minutes as approved by the Commission.

#### Section 12: Staff Reports

Staff reports shall be made available on most agenda items. Staff reports are required by the Government Code for any hearing on a change of zone involving ten or more acres. When such reports exist they shall be made available to the public in the Recording Secretary's office located at 300 N. Flower Street, 3<sup>rd</sup> Floor, Santa Ana at least one business day, if feasible, before the scheduled hearing, and at the hearing. Such reports shall constitute a part of the record of the Commission's proceedings. Also, pdf versions of

the report may be made available on the County web site for downloading by interested persons.

### Section 13: Rules of Evidence and Hearing Conduct

#### A. Rules of evidence

All relevant evidence shall be considered by the Commission in the course of its proceedings. This evidence may take the form of written reports, oral testimony, pictures, physical exhibits and any Commissioner's own firsthand knowledge of the site involved. Commission Counsel may advise the Commission on the incorporation of physical or pictorial evidence into the record.

#### B. Conduct of hearings

Rebuttal testimony may be heard at the discretion of the chairman, following advice of the Commission. The Chairman may also place reasonable time limits on testimony, rule irrelevant or redundant testimony out of order, and make such other rulings as may be necessary for the orderly conduct of the Commission's business. Rulings of the Chairman on procedural and parliamentary matters are subject to over-rule by a motion to that effect, second and majority vote of Commissioners present.

### Section 14: Receipt of Written Materials

Any correspondence to the Commission shall be distributed to all members. Such correspondence shall constitute a part of the record of the Commissioners' proceedings.

To ensure consideration by the Commission, any written material, including letters, briefs, and other documents, in support of or opposing the pending matter, shall be presented to the Planning

Commission by filing ten copies thereof (one for each Commissioner and Advisory Member, and one for the Recording Secretary) with the Recording Secretary not less than one (1) business day prior to the time scheduled for the hearing. Such

written material should not be read aloud as public testimony. Exceptions to these conditions may be made by the chairman.

The Secretary's copy of the written material discussed above will be available for public inspection prior to the hearing. (Special time periods for submission of materials may be established by the Commission in individual cases where an unusually heavy volume of such material is anticipated or other exceptional conditions exist.)

If untimely written material is not accepted by the Commission for incorporation into the record of that proceeding for which it was submitted, said material will not be considered by the Commission unless the matter is continued to a date sufficient to allow adequate review of the material.

#### Section 15: Correspondence

Correspondence from the Commission must be authorized by a vote of the Commission and may be signed by either the Chairman, the Vice-Chairman or the Executive Officer on official Commission letterhead stationery, or County R&DMD stationery when no Commission stationery exists.

#### Section 16: Committees

The chairman may appoint committees of not more than two voting members and other persons from time to time to study matters of concern to the Commission.

#### Section 17: Travel

Travel on Planning Commission business by members outside of Orange County but within the general area, shall require the prior approval of the Commission. Approval shall be subject to the availability of budgeted funds for the purpose and compliance with other applicable county procedures. Travel by members outside of the general area on Planning Commission business shall require the prior approval of the Director, R&DMD.

## Section 18: Special Rules for Adjudicatory Hearings

The chairman may invoke special rules for the conduct of those hearings which in the opinion of the County Counsel are of a adjudicatory nature. In such cases, notwithstanding anything in these Rules of Procedure to the contrary, the following procedures shall apply:

- A. Persons giving oral testimony may be sworn to the truth.
- B. Applicants or persons whose rights are immediately affected by the outcome of hearings shall be given an opportunity to present their case. Any witnesses on their behalf may be cross-examined by a representative of the county.
- C. The County staff shall present any additional evidence to the Commission. Persons giving oral testimony may be cross-examined by applicants or their representatives.
- D. Both applicants and the County staff shall be afforded a reasonable opportunity to present rebuttal testimony.
- E. The Chairman shall close the hearing. The Commission shall deliberate and vote. If the matter is continued, it shall be to a time certain.

When special rules have been invoked, the Commission shall base its action solely on the weight of the evidence presented in the course of the hearing.

## Section 19: Inexact Observation of Rules

Rules adopted to expedite the transaction of the business of the Commission in an orderly fashion are deemed to be procedural only and the failure to strictly observe such rules shall not affect the jurisdiction of the Commission or invalidate any action taken at a meeting that is otherwise held in conformity with law. Except as otherwise provided by law, these rules or any one thereof may be suspended by order of the Commission and will be deemed suspended by actions not in accordance therewith taken by or with

the consent of the Chairman or a majority of the Commission members.

#### Section 20: Amendments

These Rules of Procedures may be amended from time to time by the Commission. Copies shall be made available to the public in the hearing room of the Planning Commission and on the County web page.